

Court No. - 35

Case :- WRIT - A No. - 14148 of 2023

Petitioner :- Balbir Singh And 15 Others

Respondent :- Union Of India And 4 Others

Counsel for Petitioner :- Gaurav Singh, Anubhav Pandey

Counsel for Respondent :- A.S.G.I., Abhishek Mishra, Ashish Mishra, Dhananjay Awasthi, Dinesh Kumar Misra, Namit Srivastava

Hon'ble Vikas Budhwar, J.

Heard Sri Atul Yadav holding brief of Sri Anubhav Pandey, learned counsel for the writ petitioners as well as Sri Ashish Mishra, who appears for Respondent no.2 and Sri Namit Srivastava for Respondent Nos. 4 and 5.

The relief sought in the present writ petition is as under:

"(i) issue a writ, order or direction in the nature of certiorari quashing the impugned Notice bearing Ref. No.BES/BSN/2023/1 dated 10.07.2023 issued by respondent no.4 (Annexure No.1 to this writ petition);

(ii) issue a writ, order or direction in the nature of mandamus directing the respondents to pay the arrears of salary of the petitioners for the months of June, 2023 to August, 2023 within stipulated period of time as fixed by this Hon'ble Court;

(iii) issue a writ, order or direction in the nature of mandamus commanding and directing the Respondent Authorities to pay the arrears of the 6th Pay Commission from 2006 to 2010 alongwith interest and further provide salary in accordance with the 7th Pay Commission and also the arrears with effect since 2016 till date alongwith interest within stipulated period as fixed by this Hon'ble Court;

(iv) issue an appropriate order or directions which this Hon'ble Court may deem fit and proper in the facts and circumstances of the case;

(v) award the costs of Writ Petition to the humble Petitioners."

This Court on 10.10.2023, 26.10.2023 and 06.11.2023 proceeded to pass the following orders:-

10.10.2023

"The matter has been taken in the revised list.

Sri Anubhav Pandey, (AOR No.A/A0342/2021) holding brief of Sri Gaurav Singh, learned counsel for the petitioners seeks adjournment on the ground of Sri Ashok Khare learned Senior Counsel.

The matter is adjourned for today.

Put up this case on 26.10.2023 as fresh."

26.10.2023

"A vakalatnama has been filed by Sri Ashish Mishra on behalf of Respondent No.2.

Parties are in agreement that the matter pertaining to the controversy, which is engaging attention of this Court is already seized before a Division Bench of this Court in Writ-C No.24946 of 2023, Karm Vir Singh Jadon Vs. Union of India and others, in which date has been fixed as 31.10.2023.

Post this matter as a fresh case on 06.11.2023.

In the meantime, it is open for the parties to file their necessary affidavits. On the next date fixed, the parties shall apprise this case about further order(s) passed in the Writ-C No.24946 of 2023, Karm Vir Singh Jadon Vs. Union of India and others.

When the matter is next listed, name of Sri Ashish Mishra be shown from the respondent side."

06.11.2023

"Since it has been informed that the Division Bench is seized of this controversy, which is being raised in the present writ petition and the next date fixed has been on 28.11.2023.

Put up this case on 07.12.2023 as fresh.

Vakalatnama filed by Sri Namit Srivastava on behalf of the fourth respondent is taken on record.

Office to ensure that when the case is listed next, name of Sri Namit Srivastava is shown from the respondent side."

Today, Sri Namit Srivastava as well as Sri Ashish Mishra, who appears for the respondents have produced before this Court an order dated 28.11.2023 passed by a Division Bench of this Court in Writ-C No. 24946 of 2023, in which following relief was sought:-

"(i) issue a writ, order or direction in the nature of certiorari quashing the impugned Tender Notice bearing Tender Reference No. BES/BSN/2023/1 dated 10.07.2023 issued by respondent no.4 (Annexure No.1 to this writ petition);

(ii) issue a writ, order or direction in the nature of mandamus commanding and directing the respondents to pay the arrears of salary in favour of the

petitioners for the month of April, 2023 till June, 2023 within stipulated period as fixed by this Hon'ble Court;

(iii) issue a writ, order or direction in the nature of mandamus commanding and directing the Respondent Authorities to pay the arrears of the 6th Pay Commission from 2006 to 2010 alongwith interest and further provide salary in accordance with the 7th Pay Commission and also the arrears with effect since 2016 till date alongwith interest within stipulated period as fixed by this Hon'ble Court;

(iv) issue an appropriate order or directions which this Hon'ble Court may deem fit and proper in the facts and circumstances of the case;

(v) award the costs of Writ Petition to the humble Petitioners."

The order dated 28.11.2023 is quoted hereinunder:-

"1. Heard learned counsel for the petitioners; Shri Ashish Mishra, learned counsel for respondent no.2 and Shri Namit Srivastava, learned counsel for respondent no.4. Office of Addl. Solicitor General of India has accepted notice on behalf of respondent no.1.

2. Present writ petition has been preferred for quashing the impugned tender notice dated 10.7.2023 issued by respondent no.4; for a direction to respondents to pay the arrears of salary in favour of the petitioners for the month of April 2023 till June, 2023 within stipulated period and for a direction to respondents to pay arrears of 6th Pay Commission from 2006 to 2010 along with interest and further to provide salary in accordance with the 7th Pay Commission and also the arrears with effect from 2016 till date along with interest.

3. On the matter being taken up today, learned counsel for respondent no.4 has placed the communication dated 24.11.2023 sent by the President, BES, Jhansi to M/s Indraprasth Academy by which it is informed that the tender dated 10.7.2023 has been cancelled. As such it is submitted that cause for filing the writ petition no more survives.

4. In view of above, the writ petition is dismissed as having become infructuous. The letter dated 24.11.2023 is taken on record."

According to the learned counsels for the respondents, a counter affidavit has been filed on behalf of the fourth and fifth respondents in the present writ petition of the President of BHEL Education Society dated 31.10.2023, wherein in paragraph-26, the following stand has been taken:

"26. That the contents of paragraph 14 of the writ petition, as stated, are not admitted and are denied. In reply it is stated that the salaries of the petitioners herein and other similarly placed persons have been paid up to date and there is no arrears of salary."

Since the impugned tender notice dated 10.07.2023 has been cancelled, coupled with the fact that the statement has been made by Sri Namit Srivastava and Sri Ashish Mishra that the entire dues has been paid to the writ petitioners, thus, nothing survives to be further adjudicated.

Accordingly the writ petition is **dismissed**.

Writ Petition, being Writ-C No. 24946 of 2023, Karm Vir Singh Jadaun and others Vs. Union of India, and the Counter affidavit filed in it are taken on record.

Order Date :- 7.12.2023

N.S.Rathour